

1783. — Chapter 59.

Chap. 59

[January Session, ch. 35.]

AN ACT TO AUTHORIZE THE COURTS OF LAW TO ENTER UP JUDGMENT AGAINST THE GOODS AND ESTATE OF DECEASED PERSONS, WHEN THE EXECUTOR OR ADMINISTRATOR NEGLECTS OR REFUSES TO PROSECUTE OR DEFEND.

Whereas the Courts of common law, when the plaintiff or defendant, appellant or appellee, die before judgment, are not authorized to render judgment against the estate of the deceased, unless the executor or administrator does voluntarily appear and become a party to the suit:

Preamble.

Be it therefore enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That in all actions now pending, or that may be hereafter pending in the Supreme Judicial Court, or in any Court of Common Pleas in this Commonwealth, by appeal, continuance or otherwise, and the plaintiff or defendant, appellant or appellee, complainant or respondent shall die before final judgment, and the Executor or Administrator of the deceased party, after taking upon himself the said trust, shall neglect or refuse to become a party to the suit; the Court before whom such cause shall be pending, in case the cause of action does by law survive, may enter up Judgment against the goods and estate of the deceased party, in the same way and manner Judgment might have been, in case the executor or administrator had voluntarily after such death made himself a party to the suit. *Provided always,* That such Executor or Administrator be duly served with a notification from the Clerk of the Court where such suit is pending, fourteen days beforehand.

Where parties to actions die, and the administrator refuses to prosecute, &c. judgment to be made up as in case of voluntary appearance.

Proviso.

And be it further enacted by the authority aforesaid, That when any goods or estate are attached upon any writ or process which shall be pending as aforesaid, the same shall not be released or discharged, by reason of the death of either party, but be held good to respond the judgment to be given on such suit or process, in the same manner as by law they would have been if such deceased person had been living; any law, usage or custom, to the contrary notwithstanding. *Provided always,* That where any estate attached as aforesaid, shall by the Executor or Executors, or Administrator or Administrators of the same, be represented as insolvent, and a commission of insolvency

Estates attached not to be discharged by the death of the party.

Proviso.

shall thereupon issue; in all such cases attachments made as aforesaid shall have no force or efficacy after the death of the original defendant or defendants in the action.

Executors, &c.
intituled to a
continuance.

And be it further enacted, That all Executors and Administrators of any estate, shall, upon motion to the Court where any suit is or may be depending against them in their said capacity, be intituled to continuance of the same until the next term of the said Court. *March 17, 1784.*

1783.—Chapter 60.

[January Session, ch. 37.*]

Chap. 60 AN ACT FOR THE MORE SAFE KEEPING THE REGISTRY OF DEEDS AND CONVEYANCES OF LAND AND FOR APPOINTING THE TIME AND MANNER OF CHOOSING REGISTERS.

A Register to be
chosen in each
county in March,
1786.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That there shall be chosen in each county within this Commonwealth, by the written votes of such persons as are by the constitution qualified to vote for representatives in the several towns, at their respective annual town meetings in the month of *March*, one thousand seven hundred and eighty-six, some discreet, suitable person, having a freehold within the same county, of the annual income of ten pounds at the least; the votes to be counted and sorted in the town meeting by such persons as shall be chosen to count and sort the votes for that meeting; the names of the persons voted for, and the number of votes each person had, shall be recorded by the Town Clerk, in the town book, and an attested copy of such record shall be transmitted under seal to the next Court of General Sessions of the Peace, to be held within and for the county, on the first day of the Court's sitting there, to be opened and compared with the like returns from the several towns in such county. And the person having the majority of the said votes, and accepting of the said office, after being sworn to the faithful discharge of the trust before the Supreme Judicial Court, or Court of Common Pleas, Court of Sessions, or two Justices of the Peace within the county *quorum unus*; and giving bond to the Clerk of the Court of General Sessions of the Peace in the said county, with two sureties in the sum of five hundred pounds, for the faithful discharge of his trust,

To be sworn &
to give bond.

* No chapter 36 in Session pamphlet.